

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HERMAN PRICE, et al.,	:	Case No. 09-CV-0118
	:	
Plaintiffs,	:	Judge Boyko
	:	
v.	:	
	:	
LEE LUCAS, et al.	:	
	:	
Defendants.	:	

HERMAN PRICE,	:	Case No. 10-CV-1673
	:	
Plaintiff,	:	Judge Oliver
	:	
v.	:	
	:	
UNITED STATES OF AMERICA	:	
	:	
Defendants.	:	

JOINT CONSENT MOTION TO CONSOLIDATE

The plaintiff, Herman Price, and the defendant the United States of America, by and through their respective attorneys, pursuant to FED. R. OF CIV. P. 42(a) and Local Rule 3.1(b)(3), move for consolidation of Herman Price et al., v. United States, et. al., Civ. No. 09-CV-0118 (Judge Boyko) with Herman Price v. United States, Civ. No. 10-CV-1673 (Judge Oliver). In support of this motion, the parties state as follows:

1. Rule 42(a) provides:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend

to avoid unnecessary costs or delay. FED. R. CIV. P. 42(a).

See also Redmon v. Sumitomo Marine Mgmt. (U.S.A.), Inc., 179 F. Supp. 2d 787, 792 (N.D. Ohio 2001) (A court should consolidate cases if they "involve a common party and common issues of fact," the costs and benefits weigh in favor of consolidation, and no prejudice results to the party opposing consolidation).

2. Plaintiff has filed two causes of action that involve the same core set of facts and name the United States as a defendant: Herman Price et al. v. Lee Lucas, et. al., Civ. No. 09-CV-0118 (Judge Boyko), and Herman Price, v. United States, Civ. No. 09-CV-1673 (Judge Oliver).
3. Each complaint arises from the indictment, arrest and prosecution of Plaintiff Price in 2005. The first complaint (09-CV-0118) asserts conspiracy, constitutional claims, and other legal claims against the individuals (and their employers) involved in Mr. Price's criminal investigation, arrest and prosecution, under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). The second complaint (09-CV-1673) asserts claims arising from the same events against the United States under the Federal Tort Claims Act. 28 U.S.C. § 1346(b).
4. Under Local Rule 16.3(c)(1)(C)(iii), these two cases are "related cases" because they involve substantially the same facts.
5. Plaintiff, however, inadvertently neglected to designate the cases as related upon filing the second complaint. As a result, the two cases are now set before two different judges.
6. In the interest of judicial economy, plaintiff and the United States, with consent of all effected parties, now move to have the two cases consolidated. The defendants in the earlier case, other than the United States, consent to the request for consolidation.

WHEREFORE, the parties respectfully move for consolidation of Herman Price et al., v.
United States, et. al., Civ. No. 09-CV-0118 (Judge Boyko) with Herman Price v. United States,
Civ. No. 10-CV-1673 (Judge Oliver).

Respectfully submitted,

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ORDER

Upon consideration of the Joint Consent Motion for Consolidation and for good cause shown, it is hereby ordered that the above-captioned cases are consolidated.

SO ORDERED.

United States District Judge